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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/772,274	01/29/2001	Patrick A. Banas	60426-206/00P7843US01	8871

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EXAMINER

NGUYEN, PHUNG

ART UNIT

PAPER NUMBER

2632

DATE MAILED: 12/26/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/772,274	BANAS, PATRICK A.
	Examiner Phung T Nguyen	Art Unit 2632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 15-24 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 15-18 is/are allowed.
- 6) Claim(s) 19-24 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawakami et al. [U.S. Pat. 5,488,353] in view of Saitoh et al. [U.S. Pat. 5,813,989]

**Regarding claim 19:** Kawakami et al. disclose an apparatus and method for improving the awareness of vehicle drivers comprising the tactile warning 26, visual warning 28, auditory warning 29 to determine different level of awareness of the driver (figure 1, col. 21, lines 59-67, and col. 22, lines 1-16). Kawakami et al. fail to disclose lowering a temperature in a vehicle cab in response to an increase in a level of drowsiness as claimed. However, Saitoh et al. disclose a driving mental condition detecting apparatus comprising the air conditioner system 2 (figure 1, col. 2, lines 49-64, and col. 9, lines 29-37) for lowering a temperature in the vehicle cab in response to an increase in a level of drowsiness. Therefore, it would have been obvious to one of ordinary skill in the art to implement the technique of Saitoh et al. in the system of Kawakami et

al. for lowering a temperature in the interior space of a vehicle in order to alert the driver who is determined to be unaware which is an advantage.

**Regarding claim 20:** Saitoh et al. disclose the climate control system in the form of the air conditioner 2 (figure 1, col. 2, lines 49-50) for lowering the temperature.

**Regarding claim 21:** Saitoh et al. disclose the step of lowering the temperature in the vehicle cab occurs when a predetermined level of drowsiness is monitored (col. 9, lines 9-15, and lines 29-35).

4. Claims 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawakami et al. [U.S. Pat. 5,488,353] in view of Brownlee [U.S. Pat. 5,910,773]

**Regarding claim 22:** Kawakami et al. disclose an apparatus and method for improving the awareness of vehicle drivers comprising the tactile warning 26, visual warning 28, auditory warning 29 to determine different level of awareness of the driver (figure 1, col. 21, lines 59-67, and col. 22, lines 1-16). The device of Kawakami et al. does not disclose alerting the driver includes pumping an amount of oxygen into an interior space of a vehicle. However, Brownlee discloses an oxygen supply system for wheeled vehicles comprising the system 20 (figure 1, col. 3, lines 9-51) to alert the driver by pumping the amount of oxygen into the interior space of a vehicle. Therefore, it would have been obvious to the skilled artisan to use the oxygen generating system 20 of Brownlee in the device of Kawakami et al. because improving the percentage of oxygen in the interior space of a vehicle would alert the drowsy driver so that the number of accidents caused by drowsy drivers can be reduced.

**Regarding claim 23:** Brownlee discloses the climate control system 20 (figure 1, col. 2, lines 40-46) for pumping the amount of oxygen to the passenger compartment.

**Regarding claim 24:** Brownlee discloses the step of pumping the amount of oxygen into the vehicle cab (col. 3, lines 21-26), plus the consideration of claim 22 above.

***Response to Arguments***

5. Applicant's arguments with respect to claims 15-24 have been considered.

Claims 19-24 are moot in view of new ground(s) of rejection.

Claims 15-18 are allowed.

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

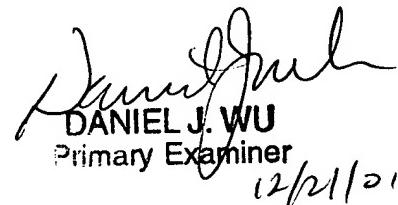
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phung Nguyen whose telephone number is (703)308-6252. The examiner can normally be reached on Monday to Friday from 8:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffery Hofsass, can be reached on (703)305-4717. The fax phone number for this Group is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 306-0377.

Examiner: Phung Nguyen

Date: December 20, 2001

  
DANIEL J. WU  
Primary Examiner  
12/21/01